THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.NO.5228 OF 2000

Date: 13-09-2007

Between:

M/s Sanghi Spinners India Ltd.,
P.O.Sanghi Nagar,
Hayathnagar Mandal,
Rangareddy District,
Rep. By the Managing Director,
Mr.Sudhir Sanghi … Petitioner

And

1.State of Andhra Pradesh,
rep.by its Principal Secretary,
Industries Department,Hyderabad
And two others. … Respondents

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ORDER:

This writ petition is filed questioning the action of the respondents refusing to grant benefits of G.O.Ms.No.108 Industries and Commerce (IP) Department dated 20.5.1996 to the petitioner. The petitioner through the letter dated 18.7.1997 requested the third respondent (General Manager), District Industries Centre, Rangareddy District to sanction the special incentives for Mega projects/pioneer projects as per G.O.Ms.No.108 dated 20.5.1996 which interalia lays down that all new industrial units whether large, medium or small other than those listed in the Annexure thereto to be located anywhere in the state of Andhra Pradesh except within the Municipal Corporation areas of Hyderabad, Vijayawada and Visakhapatnam, and going into commercial production on or after 15.11.1995 are eligible to the incentives mentioned therein. The first respondent through the letter, dated 29.11.1999 impugned in this petition rejected the request of the petitioner for the reasons mentioned therein. Questioning the same, this petition is filed.

The contention of the learned counsel for the petitioner is that various grounds mentioned in the impugned letter are all contrary to the facts. The rejection of the request of the petitioner by the first respondent does not seem to be in the manner which it ought to have been and contended that since the very fact it is alleged that the petitioner is not entitled to merely because it is located in the Rangareddy District, which is a highly industrialized area shows that the respondents are bent upon negativing the petition for the reasons not mentioned therein, because the G.O.Ms.No.108 dated 20.5.1996 does not lay down that the industries located in the Ranga Reddy District are not entitled to the benefits of the G.O. It is also his contention that the eligibility of the petitioner for incentives cannot be determined on the basis of the industries that come up subsequently and the question has to be decided objectively on the basis of the facts relating to the industry of the applicant but not on the basis of the industries that come up subsequently as ancilliary industries. It is also his contention that the details mentioned in the letter of the petitioner clearly shows that the industry has a state of Art technology, and there is no such industry with the type of machinery installed by the petitioner anywhere in the State and so it is clear that the respondents without applying their mind have rightly rejected the request of the petitioner.

The contention of the learned Government Pleader is that since the Rangareddy District has become highly industralised, and since it is the intention of the

Government to grant incentives to industries in localities, which are not industrialized, and since the respondents are considering the various eligibility criteria of the petitioner, the respondents have rejected the request of the petitioner and since the G.O. specifically laws down that Mega projects are not ipso facto entitled to the benefits conferred by G.O., but they have to be considered on case to case basis and since the case of the petitioner is considered, the same was rejected on merits. This court by exercising jurisdiction under section 226 cannot grant a direction to grant the benefits of G.O. to the petitioner. It is true that as per clause-6.06 of the G.O.108, mega projects, whose investment exceed 100 crores ipso facto are not entitled to the benefits of the said G.O., but the Government has the option to consider special packages of incentives on case to case basis, based on the gestation period of projects, pioneer nature of projects, locational aspects, state of the art technology, profitability, scope shall ancillaries etc., So, it is clear that the Government is given an option to grant or not to grant the incentives to a mega project. As rightly contended by the learned counsel for the petitioner that the reasons mentioned by the first respondent for negativing the incentives do not clear to be inconsonance with the guidelines issued in the G.O. The impugned order does not seem to have considered the various details mentioned in the application of the petitioner giving out the details as to the pin nature of the industry and the state of art technology etc., In view thereof, in my considered

opinion, this is a fit case to set aside the impugned letter and direct the first respondent to consider the application of the petitioner and pass appropriate orders thereof.

In the result, the writ petition is allowed and the impugned order is set aside and the case is remitted to the first respondent for fresh disposal of the case.

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C.Y.SOMAYAJULU, J.

13th September, 2007.

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THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

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